



## BOOK REVIEWS

EDITED BY A.U. DE SAPERE

### **U.S. Ratification of the Human Rights Treaties With or Without Reservations?**

Edited by Richard B. Lillich. Charlottesville, Virginia: University Press of Virginia, 1981. Pp. 203. \$12.95.

On February 23, 1978, then-President Jimmy Carter forwarded four human rights treaties (commonly referred to as the convention to eliminate racial discrimination; the covenant on economic, social and cultural rights; the covenant on civil and political rights; and the American convention) to the U.S. Senate for its advice and consent to ratification (pursuant to article 2, section 2, paragraph 2 of the Constitution). Attached to the transmittal were a number of proposed reservations, understandings and declarations. In January of the following year, the International Human Rights Law Group (IHRLG) sponsored a panel discussion, among nine distinguished international human rights law scholars and practitioners, of the ratification of the treaties. In 1981, the IHRLG, a component of the non-profit Procedural Aspects of International Law Institute (PAIL), published the proceedings of the discussion, which claims to be "the seminal study of the four human rights treaties. . . ." (fly cover).

The assertion that "this book is and will remain the seminal study" would probably be viewed by warranty lawyers as puffery. However, this book is both an important addition to the human rights literature and a good starting point for learning about the treaties and the problems confronting their ratification. Less than 40 percent of the volume is devoted to the discussions of the panel, which included Richard B. Lillich, Howard W. Smith professor of law at the University of Virginia School of Law (moderator/editor); Nigel Rodley, legal advisor to Amnesty International ("On the Necessity of United States Ratification. . ."); Louis Henkin, Hamilton Fish professor of International Law and Diplomacy at Columbia Law School (Covenant on Civil and Political Rights); Burns H. Weston, professor of law at the University of Iowa College of Law and Hurst Hannum, executive director of PAIL (Covenant on Economic, Social and Cultural Rights); Clyde Ferguson, professor of law at the Harvard Law School (racial dis-

crimination convention); Thomas Buergenthal, dean of the American University Law School (American convention); and Arthur Rovine, assistant legal advisor for treaty affairs with the U.S. Department of State and Jack Goldklang, attorney-advisor with the U.S. Department of Justice's Office of Legal Counsel (defending the declarations, reservations, and understandings). The floor discussion included a professor of international law at the University of Auckland, New Zealand, and an aide to the present chairman of the Senate Foreign Relations Committee. The bulk of the volume contains the reproduction of the White House transmittal to the Senate, including President Carter's letter (which indicates a number of the declarations), two reports from the State Department (which summarize the contents of the four treaties and the proposed reservations, understandings and declarations), and the texts of the four treaties. The volume also includes a brief bibliography of articles which have appeared since the transmittal.

The panel was well qualified, with several of its members having been involved in the negotiating of the original treaties. Professor Buergenthal, in fact, sits as a justice on the Inter-American Court of Human Rights. However, the panel did not include any opponents, particularly representing the U.S. Senate, of the treaties. Thus, the discussion focused on the proposed reservations to the treaties. The debate gravitated toward an attack on the reservations, with Art Rovine and Jack Goldklang in the unenviable position of the defense. Curiously, the panel did not really focus on the pragmatic problems of ratifying the treaties. Some reservations, however distasteful to purists, are necessary to win the approval of the Senate. And, as everyone knows, the present reservations have not motivated Senate support.

The essays in this volume are not detailed scholarly expositions of the treaties and reservations. The articles listed in the bibliography and other publications do a far superior job. The essays are short and only introduce the issues. This shortcoming is not the fault of the authors but of the format—the editing and publishing of conference proceedings. The real value of the book lies in its reproduction of the texts of the treaties and reservations. The preceding essays, thus, are useful introductory material for the texts.

The participants focused heavily on the need, but little on the tactics, of getting the treatise ratified. This shortcoming was identified by the moderator and several of the speakers. The panel presentation may have been intended to catalyze the American human rights community, evidenced by the locale of the presentation in a Senate hearing room, into concerted action to press for ratification of the treaties. Unfortunately, this effort, along with many others, has failed to coalesce the community into an effective political force. This is doubly distressing since the treaties have no natural political constituency and victims of abuses abroad do not represent a political force. In fact, Jack Goldklang flags the lack of communication between "domestic" activists and "international" activists as one of the pos-

sible reasons for the absence of constituent support for the treaties. It is the issue of how to get the treaties ratified—strategy and tactics—that still remains to be discussed and acted upon.

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## **Business and the Middle East: Threats and Prospects**

Edited by Robert A. Kilmarx and Yonah Alexander, New York:  
Pergamon Press, Inc., 1982. xxxvi, 240 p. Hardcover, \$24.40.

This is a book on risk assessment, particularly on political risk analysis, of the Middle East. August Ralston, a professor of risk management, defines political risk as "the exposure to specific action by a foreign (host) government or private buyer that adversely affects the value of a specific business firm. The definition does not include changes in general economic conditions in a foreign country that adversely affect a business firm. Emphasis is on foreign political risk, although domestic political risk does exist."<sup>1</sup> These risks include the seizure of assets or politically motivated violence against the company and its personnel (e.g., expropriation, confiscation, kidnapping), physical or legal obstruction of operations, currency inconvertibility, and license revocation. Political risk analysis should help the international manager predict his company's relative security and suggest steps that can be taken to reduce these risks.

One of the trends in political risk analysis has been the development and use of indexes, an attempt to translate political, social and economic behavior and factors into numbers. *Business International*, the *Business Environment Risk Index*, and *Frost & Sullivan's World Political Risk Forecast*, among others, attempt to rate political risk on a numerical scale. While these indexes may satisfy the businessman's desire for quantifiable data, they imply a statistical precision that does not exist. Furthermore, the index approach does not take into account the unique circumstances and vulnerabilities of particular businesses. As a result, Prof. Ralston reports an official of Shell Oil Company to say, "Shell's experience has been that generalized assessments of political risks have 'very little value.' The only useful analysis is tailor-made to a specific company in a specific country."<sup>2</sup>

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<sup>1</sup>August Ralston, *The Struggle to Protect Worldwide Investment*, RISK MANAGEMENT 26, March 1981.

<sup>2</sup>*Id.*, at 28.

*Business and the Middle East: Threats and Prospects* goes a long way toward meeting the needs of the risk analyst and businessman. It is the most recent addition to the growing field of political risk literature. The book, consisting of a lengthy introduction and nine essays, approaches the assessment of its target, the Middle East, from two directions. First, the book considers the leading factors relevant or applicable to the entire region. The first factor, in light of the turmoil in Iran, to be considered is the religious environment. The author, Roger Savory, brings an immense scope to the forty-page analysis: the region's religious history; leading Islamic traditions, especially with regard to law; the impact of Westernization and modernization; the reaction of Muslim fundamentalists; as well as synopses of religion in Egypt, Iran, Pakistan and Turkey.

Other factors considered are political, security, economic, trade, business and development elements. Waldo Dubberstein, in making a political and security assessment, includes the Palestinian problem and the Lebanese conflict. This chapter highlights the shortcomings of a book such as this. While the content and analysis can be extremely useful, it can be quickly dated by fast-moving world events. This is especially true when the fast-moving event is the Israeli Army. On the other hand, the recent events in Beirut have only served to verify Dubberstein's analysis. The value, then, of these analyses, as is evident in Riad Ajami's essay on MNC's and Arab economic development, is to identify future issues and potential sources of conflict.

The second approach utilized in this book is to look at risk analysis on a country-by-country basis. Three essays provide political and security assessments of Egypt, Iran, and the Gulf States (Kuwait, Bahrain, Qatar, the United Arab Emirates and Oman). If anything can be said in a few words, Ibrahim Oweiss believes that Egyptian "President Mubarak's political future is relatively secure, but that the way to stabilize the country is by ending its isolation from the rest of the Arab world." Charles McDonald identifies the radical change in Iran's perception of its own security. The Shah sought to promote regional stability as a means of insuring Iranian security, whereas Ayatollah Khomeini seems bent on regional destabilization. According to MacDonald, "This could (also) bring the Arab-Israeli conflict to the Persian Gulf." The Iranian revolution, as discussed by Malcolm Peck, along with the Palestinian problem and the Soviet invasion of Afghanistan, have subjected the conservative Arab Gulf states "to dangerous pressures."

The final chapter, "Assessing Corporate Vulnerability" by Brooks McClure, is a how-to chapter on reducing the risks once a business locates in a foreign country. The essay does not, however, discuss alternatives of interest to most lawyers, such as the type of business organizations, legal structures, risk insurance, etc. Its suggestions are geared toward the public relations and plant security staffs. Thus, the reader might wonder why this chapter, although it is important, was included with the other essays.

The editors, Robert Kilmarx and Yonah Alexander, declare that "the purpose of this book is to examine the political security situation in this Middle East and its significance for business in the 1980s." Even though the events of the summer of 1982 have dated some of the material, its analysis is relevant and accurate. *Business and the Middle East* should be read by everyone considering a business activity in this region.

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